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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,022	01/16/2004	Shoichi Okamura	SUT-0232	6241
23353	7590	09/28/2006	EXAMINER	
RADER FISHMAN & GRAUER PLLC			HO, ALLEN C	
LION BUILDING			ART UNIT	
1233 20TH STREET N.W., SUITE 501			PAPER NUMBER	
WASHINGTON, DC 20036			2882	

DATE MAILED: 09/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/758,022

Applicant(s)

OKAMURA ET AL.

Examiner

Allen C. Ho

Art Unit

2882

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 September 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-6.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Allen C. Ho
Allen C. Ho, Ph.D.
Primary Examiner
Art Unit: 2882

Continuation of 11. does NOT place the application in condition for allowance because:

With regard to the rejection of claims 1 and 3-5 under 35 U.S.C. 102(b) as being anticipated by Hsieh (U. S. Patent No. 5,249,123), the applicants argue that the phenomenon of time lag is different from the phenomenon of afterglow disclosed by Hsieh. The examiner respectfully disagrees. As noted in MPEP § 2111, during patent examination, claims are given their broadest reasonable interpretation consistent with the specification. It is proper to use the specification to interpret what the applicant meant by a word or phrase recited in the claim. However, it is not proper to read limitations appearing in the specification into the claim when these limitations are not recited in the claim. Hsieh disclosed a means that removes the effect of afterglow, which is due to the fact that the light is not instantaneously emitted by a scintillator in an x-ray detector. Hsieh explained that this time-delayed emission of light in one view extends into subsequent views, causing an enlargement of an object (column 2, lines 18-22). As defined by Merriam-Webster, the word lag means to stay or fall behind, which appropriately describes the delayed emission of light in the phenomenon of afterglow.

The applicants argue that a flat-panel x-ray detector as described in the specification does not produce the phenomenon of afterglow. This argument is not persuasive. Applicants' arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

With regard to the rejection of claim 2 under 35 U.S.C. 103(a) as being unpatentable over Hsieh (U. S. Patent No. 5,249,123), the applicants argue that the constant in the denominator cannot be simply replaced by 1. Upon further consideration, the examiner agrees it would be improper to modify the denominator. The rejection of claim 2 under 35 U.S.C. 103(a) will be withdrawn.

With regard to the rejections of claims 1, 2, and 6 on the ground of nonstatutory obviousness-type double patenting, the applicants argue that a prima facie case of obviousness-type double patenting has not been established. The examiner respectfully disagrees. In each instance, the claims that claim the same subject matter have been clearly identified. For example, claim 1 and claim 15 of U. S. Patent No. 7,006,599 B2 claims a radiographic apparatus that comprises: radiation emitting means (claim 1); signal sampling means (claim 1); time lag removing means (claim 1); wherein the time lag removing means is arranged to perform the recursive computation for removing the lag-behind part from each of the radiation detection signals based on the following equations A-C (claim 15). Thus, items in claims 1 and 2 of the present application have been matched to claims 1 and 15 of U. S. Patent No. 7,006,599 B2. Therefore, the rejections are deemed proper.